

the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA. The permit program requires in Article XXI, section 2103.12.f.1 and 2103.10.c.3, the legal obligation to comply with terms and conditions of any permit.

*Criterion 3. The state operating permit program must require that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise "federally enforceable" e.g. standards established under sections 111 and 112 of the Clean Air Act).* Article XXI, section 2103.12.a.C. states that the conditions of the permit must provide for and require compliance with all applicable requirements. Section 2103.12.g states that all permits shall include standard emissions limit requirements. Additionally, if an alternative emission limit is provided, section 2103.g.2 requires that it must be demonstrated to be equivalent to or more stringent than the applicable limit.

*Criterion 4. The limitations, controls, and requirements of the state operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter.* Article XXI, section 2103.12.g states that the permit must include those operational requirements and limitations that assure compliance with all applicable requirements. This includes appropriate testing, monitoring, recordkeeping and reporting.

*Criterion 5. The permits are issued subject to public participation. This means that the state agrees, as part of its program, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be federally enforceable. This process must also provide for an opportunity for public comment on the permit applications prior to the issuance of the final permit.* Article XXI, subchapters B and C provide thorough procedures for public participation which meet the public participation criteria. Sections 2102.05.c, 2103.11.e, 2102.04.h, 2103.11.h detail the public participation requirements.

Allegheny County Health Department's operating permit program

clearly satisfies the criteria for approval of a state program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and is, therefore, approved as a SIP revision. The criteria discussed above relates to operating permit programs that are to approved as part of the SIP under section 110 of the Clean Air Act. In general, FESOP permit programs approved under a SIP relate only to those pollutants regulated under section 110, that is criteria pollutants. Pennsylvania is also seeking approval of ACHD's operating permit program under section 112 of the Clean Air Act for the purpose of limiting the PTE of hazardous air pollutants. The following is a discussion of EPA's criteria for approval of the permit program under section 112.

### III. Evaluation of State Operating Permit Program Under Section 112 of the Act

As part of this action, EPA is approving, pursuant to section 112(l) of the Clean Air Act. Pennsylvania's request on behalf of the ACHD for authority to regulate hazardous air pollutants (HAPs) through the issuance of a federally enforceable state operating permit. Approval pursuant to section 112(l) of the Act would grant the ACHD authority to issue federally enforceable permits which limit PTE of HAPs. The EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice referenced above, are also appropriate for evaluating and approving operating permit programs under section 112(l). The June 28, 1989 notice does not address HAPs because it was written prior to the 1990 amendments to section 112 of the Act. Since the ACHD's operating permits program meets the five program approval criteria for both criteria and hazardous air pollutants, it may be used to limit the potential to emit of both criteria and hazardous air pollutants.

In addition to meeting the criteria discussed above, the ACHD's permit program for limiting potential to emit of HAPs must meet the statutory criteria for approval under section 112(l)(5) of the Act. This section allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with Section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA is approving the ACHD's state operating permit program pursuant to section 112(l) of the Act because the programs meet applicable approval criteria in section 112(l)(5) of the Act. Regarding the statutory criteria of section 112(l)(5) of the Act, EPA believes the ACHD's permit program contains adequate authority to assure compliance with section 112 requirements since the program does not waive any section 112 requirement(s). Sources would still be required to meet section 112 requirements applicable to non-major sources. Regarding adequate resources, ACHD has included in its state operating permit program provisions for the collection of fees from sources obtaining permits. Furthermore, EPA believes that the state operating permit program provides for an expeditious schedule for assuring compliance because they allow a source to establish a voluntary limit on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Nothing in the operating permit program would allow a source to avoid or delay compliance with a federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. The state operating permit program is consistent with the objectives of the section 112 program because its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. The EPA believes that this purpose is consistent with the overall intent of section 112.

### IV. Final Action

EPA is approving a revision to the Allegheny County portion of the Commonwealth of Pennsylvania State Implementation Plan (SIP). The revision consists of Allegheny County's state operating permit program. EPA is approving this revision in accordance with the requirements of sections 110 and 112 of Clean Air Act.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision and section 112(l) approval if adverse comments are filed. This rule will be effective on August 25, 2003 without further notice unless EPA receives adverse comment by July 28, 2003. If EPA receives adverse comment, EPA will publish a timely